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Did You Know?

Dicta Editorial Board

On the question of public policy relative to voting trusts, the existence of the statute in Colorado cannot be considered wholly declarative. A statute such as this cannot remove the legal objections to voting trusts which would tend to create a monopoly,[32] act in restraint of trade, or to defeat competition,[33] but an agreement under this permissive statute would be presumed to be for the benefit of the members, stockholders, and corporation and not for an unlawful purpose[34] in view of the more recent cases,[35] rather than be considered void as against public policy *per se*.

[32] *State v. Standard Oil Co.*, 49 Ohio 137, 30 N. E. 279.
[33] *Clarke v. Georgia Cent. R. Co.*, 50 Fed. 338, 15 LRA 683.
[34] *Day v. Hecla Mining Co.*, 126 Wash. 50, 217 Pac. 1.
[35] The change to more liberal views is best seen in *Carnegie Trust Co. v. Security Life Ins. Co. of America, supra*—see note No. 3.

DID YOU KNOW?

On February 25, 1935, a suit was brought in the District Court by The International Trust Company to foreclose a mortgage upon the Equitable Building in the city of Denver. Many of the occupants of this building are doubtless holding under leases, therefore the Colorado statutes relating to redemptions, by lessees, from foreclosure sales, are of current interest.

The law of 1929 (p. 538) as amended in 1931 (p. 696) makes provision for redemption by the owner of the mortgaged property, within the period of six months. Then there is a provision to the effect that if no such redemption is made by the owner, an encumbrancer or lienor may redeem.

At page 541 of the laws of 1929 the following appears: "for the purposes of this Act, a *lessee* of the premises or portion thereof shall be considered as a lienor."

This provision of the redemption statute is seldom used and is easily overlooked.

Many of the occupants of the Equitable Building are lawyers, who may wish to redeem if the property is sold under the mortgage, and their attention should be called to this stat-

ute of 1929 in order that they may ascertain whether the mortgage in question comes within its provisions.

The amount claimed in the foreclosure suit is $995,052.28.

Respectfully, JESSE H. SHERMAN.

(Picture any lawyer tenant the morning he receives Dicta and learns the golden opportunity before him—business of excitedly summoning his secretary: "Miss Smith, get me a certified check for One Million Dollars. I am going to redeem the Equitable Building. I might need the rest of the check for small change.")

And in order to make the redemption simple, swift and sure, Mr. Sherman also advises that:

The case of Hittson vs. Davenport, 4 Colo. 169, is of interest at the present time.

In an action brought upon a promissory note payable in gold, the court says:

Page 174, "the contract was to pay so many dollars in gold. In the absence of any waiver of this condition, payment in gold would alone satisfy the contract."

Page 175, "the objection that the judgment was for 'gold dollars' instead of so many dollars generally, is not well taken. The cases cited, supra, are sufficient authority for saying that as it was the clear intent of the contract that payment should be in gold, the indebtedness should have been found in gold dollars and the judgment entered accordingly."

Mr. Albert L. Vogl clipped the following interesting article from the issue of the *London Sphere* of February 2, 1935:

SHORTHAND IN THE HIGH COURT

If Lord Sankey succeeds in introducing the practice of shorthand notes to take the place of the judge's longhand notes of evidence, it is my belief he will go some way to speed up the course of justice without damaging its efficiency. The older practice is very long established. The points *for* its continuance now boil down to one only—that the trained mind of the judge concentrates on, and records, only what is relevant and vital in the given evidence. The points in favor of a full shorthand note are many:

(1) A draft of the day's evidence could be supplied to the judge the same evening, and while his memory was fresh he could edit the notes and underline his essentials as well as, or better than, he could do it contemporaneously.

(2) The exact words used by a witness are often of more value *in an appeal* than the judge's own *precis* of the essentials of that evidence.

(3) The judge would be free at last to observe the witness' demeanor, a very important aid to a judge of character in separating truth from falsehood.

(4) The evidence would be disposed of far more quickly.
(5) A complete record of every word given in evidence would remain on record until the case was finally disposed of—a vital safeguard against miscarriage of justice.
(6) A heavy weight of legal experience at bench and bar has long favored the reform.

CANDIDATES FOR THE JUDICIARY

(A California Constitutional Amendment)

The full text of the amendment of the California constitution which was adopted in the recent November election, and reported in the December number of this *Journal*, is available in the December (1934) number of the Los Angeles Bar Bulletin. In our report there was omission of an important feature of the amendment, namely, that the judges of the appellate and supreme courts are subject to the provisions of the amendment from the time of its adoption.

The result is that appellate and supreme court judges will no longer be chosen by the accustomed method of popular nomination and election. These judges will, on completion of present terms, have the privilege of having their names placed on the ballot without competition, and a majority vote in favor of retaining them in office will give them an additional term. This will afford operation and experience under the new plan from the beginning.

Application of the plan to the superior court judges depends first on adoption of an enabling act to prescribe the conditions under which the people of any county may vote on the question of adopting the new system. The amendment intended for the relief of Los Angeles County, which was defeated at the election, provided that a vote of two-thirds of the members of the board of supervisors would result in submission of the proposal to adopt the appointing plan. It seems unreasonable to require so large a majority for the mere purpose of affording opportunity for a popular expression. The cost of placing the question on the ballot is trivial and a majority vote of the supervisors should be considered sufficient for the initial step.

VOTES RECEIVED BY FOUR AMENDMENTS

The following are official figures on the four initiated amendments affecting the administration of justice which were approved by the voters:

Selection of judges—yes, 810,320; no, 734,857.

Making attorney general chief law enforcement officer—yes, 1,063,290; no, 449,075.

Permitting judges to comment on evidence—yes, 1,087,932; no, 406,287.

Pleading guilty before committing magistrate—yes, 1,173,838; no, 317,090.